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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stefan FUCHS et al.

Attorney Docket No. 076326-0262

Title: AIRBAG UNIT

Appl. No.: 10/644,956

Filing Date: 08/21/2003

Examiner: Ruth Ilan

Art Unit: 3616

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A pre-appeal brief conference is requested to review the final rejection mailed on November 28, 2005 and the Advisory Actions dated April 12, 2006 and May 15, 2006. No amendments are being filed with this request.

A Notice of Appeal was filed in this application on April 28, 2006.

REMARKS

Claims 1, 3, 4, 7-9, and 11-21 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,730,459 ('Kanda'). The rejection should be withdrawn because Kanda fails to disclose, teach, or suggest the claimed invention.

Kanda fails to disclose teach, or suggest a "a second guide member *located on* the tubular gas generator and engaged with the first guide member," as called for in claim 4. Furthermore, with regard to claims 1 and 11, Kanda fails to disclose, teach, or suggest an airbag unit "wherein the deformation element is *arranged between* the fastening element and the tubular gas generator."

The Examiner contends that Kanda discloses a guide member "located on" a tubular gas generator. However, Figure 5 of Kanda clearly shows the alleged "guide member" (the elongated hole 10₄) is "located on" the side walls 10₂, *not* the tubular gas generator 8. The "guide member" (element 10₄) is only connected to the tubular gas generator indirectly. Kanda discloses at least three elements (e.g., a lid 10, a connection member 13, and a rivet 15) positioned between the guide member 10₄ and the gas generator. The term "locate" does not include the very indirect connection relied upon by the Examiner. Locate is defined as "to put or establish (something) in a particular place," and "to place at a certain location, station, or situate." Cambridge Dictionary of American English and The American Heritage ® Dictionary of the English Language: Fourth Edition, 2000. Thus, Kanda cannot anticipate claim 4 and the rejection should be withdrawn.

The Examiner contends that Kanda discloses a deformation element "arranged between" a fastening element and the tubular gas generator. Figure 5 of Kanda discloses that the alleged deformation element 10₅ is arranged between the bolt 14 and elongated hole 10₄, and not between the tubular gas generator and the fastening element 3₁. In fact, the alleged deformation element 10₅ is on the opposite side of the fastening element 3₁ from the gas generator. Contrary to the language of claims 1 and 11, Kanda discloses that the fastening element is arranged between the deformation element and the tubular gas generator. Thus, Kanda cannot anticipate claims 1 and 11 and the rejection should be withdrawn.

The application is now believed to be in condition for allowance. A Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact the undersigned if such communication would expedite the prosecution of the application.

Respectfully submitted,

Date 6/12/2006

By 

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THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED REGARDING THIS APPLICATION UNDER 37 C.F.R. §§ 1.16-1.17, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 19-0741. SHOULD NO PROPER PAYMENT BE ENCLOSED HERewith, AS BY A CHECK BEING IN THE WRONG AMOUNT, UNSIGNED, POST-DATED, OTHERWISE IMPROPER OR INFORMAL OR EVEN ENTIRELY MISSING, THE COMMISSIONER IS AUTHORIZED TO CHARGE THE UNPAID AMOUNT TO DEPOSIT ACCOUNT NO. 19-0741. IF ANY EXTENSIONS OF TIME ARE NEEDED FOR TIMELY ACCEPTANCE OF PAPERS SUBMITTED HERewith, APPLICANT HEREBY PETITIONS FOR SUCH EXTENSION UNDER 37 C.F.R. § 1.136 AND AUTHORIZES PAYMENT OF ANY SUCH EXTENSIONS FEES TO DEPOSIT ACCOUNT NO. 19-0741.